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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,703	10/24/2003	Joseph M. Koenig JR.	TRI4546P0161US	9791
32116 7590 12/02/2011 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661				
EXAMINER RACHUBA, MAURINA T				
ART UNIT		PAPER NUMBER		
3727				
MAIL DATE		DELIVERY MODE		
12/02/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/692,703

Applicant(s)

KOENIG, JOSEPH M.

Examiner

MAURINA RACHUBA

Art Unit

3727

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-9 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-9 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 28 November 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-C1008)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art, (AAPA), specification, page 1, lines 22 through page 2, lines 17, in view of Kingman, .2,386,900. AAPA discloses a sanding block comprising an abrasive grit bonded to a flexible, compressible, polymeric foam core (P.1, ls. 23-24), the sanding block conforming, when viewed macroscopically before the sanding block becomes worn, substantially to a block having two expansive sides and two adjacent sides, (P. 1, ls. 24 – P.2, ls, 7) wherein both of the expansive sides are abrasive, wherein each of the expansive sides has two opposite edges, at each of which one of the adjacent sides adjoins the expansive sides, wherein for each expansive side a given one of the opposite edges, when viewed macroscopically before the sanding block becomes worn, is a sharp edge (P. 2, ls. 8-11); wherein, when viewed macroscopically before the sanding block becomes worn, the each sharp edge defines an acute angle in a range from about 55° to about 70° (P. 2, ls. 8-11); wherein both expansive and adjacent sides are abrasive. AAPA does not disclose that edges opposite the sharp edges are curved, that the radius is not less than about 1/8 inch at any location on the curved edge, that the radii of the curved edges is equal. '900 discloses an abrasive

block comprising one sharp-edged profile and three curved-edged profiles of different radii, designed to fit different surfaces that are to be abraded, (P. 2, c. 2, ls. 8-70). '900 clearly teaches that abrasive blocks for manual use can have sharp-edged or curved corner surfaces of either straight or curved profile to ideally match the surfaces designed to be manually abraded. It would have been obvious to one of ordinary skill in the art to have provided AAPA with opposite curved edges, as taught by '900, as the use of a known technique taught by '900 to improve a similar device, i.e., the prior art sanding block, AAPA. Further, '900 teaches curved edges of different sizes adapted to conform to the geometry of various curved intersecting surfaces. This is evidence of a recognition in the art that curved edges can be of different radii, to adapt the pad to different intended uses, or of the same radii, dependent on the intended use of the curved edges. Accordingly, one of ordinary skill would find a 1/8 inch radius to be a matter of choice for one of ordinary skill in this art.

Response to Arguments

3. Applicant's arguments filed 28 November 2011 have been fully considered but they are not persuasive. In response to applicant's argument that Kingman is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the field of endeavor is hand held abrasive tools. Further, applicant argues that the claimed abrasive block is used for drywall finishing, not

scouring kitchen utensils. However, applicant has not claimed any **structure** that would restrict the use of the block to abrading dry wall. Applicant further argues that the rigid core taught by Kingman requires the four different edge profiles because the core cannot conform to the diversity of shapes and curvatures of the workpieces, therefore one of ordinary skill would not look to Kingman to teach curved edges to a block having a "flexible, compressible, polymeric foam" core. The examiner disagrees. Kingman is relied upon to teach that edges of an abrasive block may be curved, and not the core, which is taught by AAPA. It is the examiner's position that one of ordinary skill in the art, would consider the modification of AAPA based on Kingman obvious, for the predictable result of shaping the block to a particular workpiece. Here, applicant has disclosed that the curved edge prevents damage to the workpiece, while allowing the workpiece to be abraded. Similarly, Kingman teaches that a curved edge prevents damage to the workpiece, in that the curved edge removes unwanted material from the workpiece, while allowing the workpiece to be abraded.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURINA RACHUBA whose telephone number is (571)272-4493. The examiner can normally be reached on Monday-Thursday, 6:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571 272 4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Rachuba/
Primary Examiner, Art Unit 3727